United Nations ST/SGB/2008/5

Secretariat

11 February 2008

Secretary-General's bulletin

Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority

The Secretary-General, for the purpose of ensuring that all staff members of the Secretariat are treated with dignity and respect and are aware of their role and responsibilities in maintaining a workplace free of any form of discrimination, harassment, including sexual harassment, and abuse of authority, promulgates the following:

Section 1
Definitions

1.1 Discrimination is any unfair treatment or arbitrary distinction based on a person's race, sex, religion, nationality, ethnic origin, sexual orientation, disability, age, language, social origin or other status. Discrimination may be an isolated event affecting one person or a group of persons similarly situated, or may manifest itself through harassment or abuse of authority.

1.2 Harassment is any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person. Harassment may take the form of words, gestures or actions which tend to annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another or which create an intimidating, hostile or offensive work environment. Harassment normally implies a series of incidents. Disagreement on work performance or on other work-related issues is normally not considered harassment and is not dealt with under the provisions of this policy but in the context of performance management.

1.3 Sexual harassment is any unwelcome sexual advance, request for sexual favour, verbal or physical conduct or gesture of a sexual nature, or any other behaviour of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation to another, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. While typically involving a pattern of behaviour, it can take the form of a single incident. Sexual harassment may occur between persons of the opposite or same sex. Both males and females can be either the victims or the offenders.

08-23836 (E) 150208

1.4 Abuse of authority is the improper use of a position of influence, power or authority against another person. This is particularly serious when a person uses his or her influence, power or authority to improperly influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation or promotion. Abuse of authority may also include conduct that creates a hostile or offensive work environment which includes, but is not limited to, the use of intimidation, threats, blackmail or coercion. Discrimination and harassment, including sexual harassment, are particularly serious when accompanied by abuse of authority.

1.5 For the purposes of the present bulletin, discrimination, harassment, including sexual harassment, and abuse of authority shall collectively be referred to as "prohibited conduct".

Section 2
General principles

2.1 In accordance with the provisions of Article 101, paragraph 3, of the Charter of the United Nations, and the core values set out in staff regulation 1.2 (a) and staff rules 101.2 (d), 201.2 (d) and 301.3 (d), every staff member has the right to be treated with dignity and respect, and to work in an environment free from discrimination, harassment and abuse. Consequently, any form of discrimination, harassment, including sexual harassment, and abuse of authority is prohibited.

2.2 The Organization has the duty to take all appropriate measures towards ensuring a harmonious work environment, and to protect its staff from exposure to any form of prohibited conduct, through preventive measures and the provision of effective remedies when prevention has failed.

2.3 In their interactions with others, all staff members are expected to act with tolerance, sensitivity and respect for differences. Any form of prohibited conduct in the workplace or in connection with work is a violation of these principles and may lead to disciplinary action, whether the prohibited conduct takes place in the workplace, in the course of official travel or an official mission, or in other settings in which it may have an impact on the workplace.

2.4 The present bulletin shall apply to all staff of the Secretariat. Complaints of prohibited conduct may be made by any staff member, consultant, contractor, gratis personnel, including interns, and any other person who may have been subject to prohibited conduct on the part of a staff member in a work-related situation.

Section 3
Duties of staff members and specific duties of managers, supervisors and heads of department/office/mission

3.1 All staff members have the obligation to ensure that they do not engage in or condone behaviour which would constitute prohibited conduct with respect to their peers, supervisors, supervisees and other persons performing duties for the United Nations.

3.2 Managers and supervisors have the duty to take all appropriate measures to promote a harmonious work environment, free of intimidation, hostility, offence and any form of prohibited conduct. They must act as role models by upholding the highest standards of conduct. Managers and supervisors have the obligation to ensure that complaints of prohibited conduct are promptly addressed in a fair and impartial manner. Failure on the part of managers and supervisors to fulfil their

obligations under the present bulletin may be considered a breach of duty, which, if established, shall be reflected in their annual performance appraisal, and they will be subject to administrative or disciplinary action, as appropriate.

3.3 Heads of department/office are responsible for the implementation of the present bulletin in their respective departments/offices and for holding all managers and other supervisory staff accountable for compliance with the terms of the present bulletin.

Section 4
Preventive measures

4.1 Prevention of prohibited conduct is an essential component of the action to be taken by the Organization. In the discharge of its duty to take all appropriate measures towards ensuring a harmonious work environment and to protect its staff from any form of prohibited conduct, the following preventive measures will be used.

4.2 The Organization shall conduct regular and mandatory awareness programmes for all Secretariat staff to raise awareness of the Organization's zero tolerance of prohibited conduct, to provide guidance on the relevant policy and procedures and to foster the creation of a harmonious working environment, free from intimidation, hostility, offence and any form of discrimination or retaliation. In particular, all staff members shall be required to complete the mandatory online training programme on prevention of harassment, sexual harassment and abuse of authority in the workplace, promulgated under ST/SGB/2005/20. The successful completion of this programme shall be reflected in staff members' performance appraisal.

4.3 Other programmes will continue to be offered, including targeted training for managers and supervisors, completion of which will be a requirement for advancement to successive levels of responsibility. Specific training will be provided to officials involved in informal resolution and the formal procedures set out in section 5 below, including the individuals designated under section 5.14 to investigate allegations of prohibited conduct.

4.4 Heads of department/office/mission shall ensure that their staff and others for whom they are responsible are provided with a copy of this bulletin upon taking up their appointments. A note acknowledging receipt shall be placed in the staff member's official status file. Heads of department/office/mission shall also ensure that their staff undertake the required training.

4.5 Staff members are responsible for familiarizing themselves with the Organization's policy on prohibited conduct and with the various options and internal channels available for addressing such conduct. Staff members are also reminded of the policy introduced by ST/SGB/2005/21 on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations.

4.6 In order to resolve problems which could potentially give rise to instances of prohibited conduct, managers and supervisors shall maintain open channels of communication and ensure that staff members who wish to raise their concerns in good faith can do so freely and without fear of adverse consequences.

4.7 If there is a need for confidential guidance or advice on matters which could give rise to instances of prohibited conduct, staff members may consult the Office of the Ombudsman or the Office of the Staff Counsellor, which are bound by strict

rules of confidentiality under their terms of reference. Staff members may also consult any of the other officials listed in section 5.6 below.

Section 5
Corrective measures

5.1 Individuals who believe they are victims of prohibited conduct are encouraged to deal with the problem as early as possible after it has occurred. The aggrieved individual may opt for an informal or a formal process, as explained below. Regardless of the choice made, the aggrieved individual is encouraged to keep a written record of events, noting dates, places, a description of what happened and the names of any witnesses and of anyone who may have information concerning the incident or situation at issue.

5.2 All reports and allegations of prohibited conduct shall be handled with sensitivity in order to protect the privacy of the individuals concerned and ensure confidentiality to the maximum extent possible.

5.3 Managers and supervisors have the duty to take prompt and concrete action in response to reports and allegations of prohibited conduct. Failure to take action may be considered a breach of duty and result in administrative action and/or the institution of disciplinary proceedings.

5.4 Persons accused of prohibited conduct may seek assistance from any of the persons listed in section 5.6 below.

Informal resolution

5.5 In many cases, the situation can be resolved informally. An informal approach offers the opportunity to resolve a complaint or grievance in a non-threatening and non-contentious manner. Aggrieved individuals are encouraged to notify the offender of their complaint or grievance and ask him or her to stop as, in some instances, the alleged offender may not be aware that his or her behaviour is offensive. However, disparity in power or status or other considerations may make direct confrontation difficult, and aggrieved individuals are not required to confront the offender.

5.6 Aggrieved individuals may ask for assistance from a third party in seeking informal resolution. Depending on the situation and on their level of comfort with one official rather than another, they may seek the assistance of any of the following:

(a) The Ombudsman or a member of the Ombudsman's Office;

(b) The Staff Counsellor at the duty station;

(c) A human resources officer at the duty station;

(d) A member of the conduct and discipline team in a peacekeeping mission or at Headquarters;

(e) A member of the executive committee of the staff representative body at the duty station;

(f) A staff representative of the department or office concerned;

(g) The Office of the Special Adviser on Gender Issues and Advancement of Women;

(h) The Focal Point for Women in the Secretariat or the focal point for women in the department or office concerned;

(i) A member of the Panel of Counsel or the Office of Staff Legal Assistance;[1]

(j) A supervisor, including the first or second supervisor.

In all cases, the Medical Service may be consulted for advice. Aggrieved individuals may also consult an outside adviser, such as an occupational psychologist or stress counsellor, at their own expense.

5.7 The official from whom assistance has been requested may, with the consent of the aggrieved individual, meet informally with the alleged offender to apprise him or her of the situation and discuss the manner in which it might be resolved to the satisfaction of all concerned.

5.8 All involved in the informal resolution process must recognize the need to treat the situation with sensitivity and confidentiality to the greatest extent possible.

5.9 Regardless of the outcome, the officials listed in section 5.6 above shall provide continuing support to the aggrieved party at every stage of the process, in consultation with the appropriate officials, taking into account the positive or negative consequences of the proposed course of action. If the temporary assignment of the aggrieved party or the alleged offender to another position is proposed, this may not take place without the consent of the individual concerned.

5.10 An unsuccessful attempt to resolve the matter informally does not preclude it from being pursued formally under the following provisions.

Formal procedures

5.11 In circumstances where informal resolution is not desired or appropriate, or has been unsuccessful, the aggrieved individual may submit a written complaint to the head of department, office or mission concerned, except in those cases where the official who would normally receive the complaint is the alleged offender, in which case the complaint should be submitted to the Assistant Secretary-General for Human Resources Management or, for mission staff, to the Under-Secretary-General for Field Support. Formal resolution may also be initiated by the submission of a report of prohibited conduct from a third party who has direct knowledge of the situation to one of the officials listed above (the "responsible official"). The aggrieved individual or third party shall copy the written complaint or report to the Office of Human Resources Management for monitoring purposes.

5.12 In all instances, aggrieved individuals or third parties who have direct knowledge of the situation may report cases of prohibited conduct directly to the Office of Internal Oversight Services, without the need to obtain authorization or clearance from any official.

5.13 The complaint or report should describe the alleged incident(s) of prohibited conduct in detail and any additional evidence and information relevant to the matter should be submitted. The complaint or report should include:

(a) The name of the alleged offender;

(b) Date(s) and location(s) of incident(s);

[1] The Office of Staff Legal Assistance will replace the Panel of Counsel effective 1 January 2009.

(c) Description of incident(s);

(d) Names of witnesses, if any;

(e) Names of persons who are aware of incident(s), if any;

(f) Any other relevant information, including documentary evidence if available;

(g) Date of submission and signature of the aggrieved individual or third party making the report.

5.14 Upon receipt of a formal complaint or report, the responsible official will promptly review the complaint or report to assess whether it appears to have been made in good faith and whether there are sufficient grounds to warrant a formal fact-finding investigation. If that is the case, the responsible office shall promptly appoint a panel of at least two individuals from the department, office or mission concerned who have been trained in investigating allegations of prohibited conduct or, if necessary, from the Office of Human Resources Management roster.

5.15 At the beginning of the fact-finding investigation, the panel shall inform the alleged offender of the nature of the allegation(s) against him or her. In order to preserve the integrity of the process, information that may undermine the conduct of the fact-finding investigation or result in intimidation or retaliation shall not be disclosed to the alleged offender at that point. This may include the names of witnesses or particular details of incidents. All persons interviewed in the course of the investigation shall be reminded of the policy introduced by ST/SGB/2005/21.

5.16 The fact-finding investigation shall include interviews with the aggrieved individual, the alleged offender and any other individuals who may have relevant information about the conduct alleged.

5.17 The officials appointed to conduct the fact-finding investigation shall prepare a detailed report, giving a full account of the facts that they have ascertained in the process and attaching documentary evidence, such as written statements by witnesses or any other documents or records relevant to the alleged prohibited conduct. This report shall be submitted to the responsible official normally no later than three months from the date of submission of the formal complaint or report.

5.18 On the basis of the report, the responsible official shall take one of the following courses of action:

(a) If the report indicates that no prohibited conduct took place, the responsible official will close the case and so inform the alleged offender and the aggrieved individual, giving a summary of the findings and conclusions of the investigation;

(b) If the report indicates that there was a factual basis for the allegations but that, while not sufficient to justify the institution of disciplinary proceedings, the facts would warrant managerial action, the responsible official shall decide on the type of managerial action to be taken, inform the staff member concerned, and make arrangements for the implementation of any follow-up measures that may be necessary. Managerial action may include mandatory training, reprimand, a change of functions or responsibilities, counselling or other appropriate corrective measures. The responsible official shall inform the aggrieved individual of the outcome of the investigation and of the action taken;

(c) If the report indicates that the allegations were well-founded and that the conduct in question amounts to possible misconduct, the responsible official shall refer the matter to the Assistant Secretary-General for Human Resources Management for disciplinary action and may recommend suspension during disciplinary proceedings, depending on the nature and gravity of the conduct in question.[2] The Assistant Secretary-General for Human Resources Management will proceed in accordance with the applicable disciplinary procedures and will also inform the aggrieved individual of the outcome of the investigation and of the action taken.

5.19 Should the report indicate that the allegations of prohibited conduct were unfounded and based on malicious intent, the Assistant Secretary-General for Human Resources Management shall decide whether disciplinary or other appropriate action should be initiated against the person who made the complaint or report.

5.20 Where an aggrieved individual or alleged offender has grounds to believe that the procedure followed in respect of the allegations of prohibited conduct was improper, he or she may appeal pursuant to chapter XI of the Staff Rules.

Section 6
Monitoring

General

6.1 The head of department or office shall provide annual reports to the Assistant Secretary-General for Human Resources Management, which shall include an overview of all preventive measures taken with a view to ensuring a harmonious work environment and protecting staff from prohibited conduct, and corrective measures taken under section 5 above, as well as any evaluations or assessments relating to such measures and/or activities.

6.2 As indicated in section 5.11 above, a copy of the complaint or report of prohibited conduct shall be submitted to the Office of Human Resources Management for the purpose of monitoring the complaints and reports received and actions taken. The Department of Management shall submit annually to the Secretary-General a report containing statistics on complaints or reports received and requests for protection, and information on the protection that has been provided.

6.3 A joint harassment prevention board shall be established in New York, Geneva, Vienna, Nairobi and in regional commissions other than the Economic Commission for Europe within three months of entry into force of this bulletin for the purpose of monitoring implementation of this bulletin at the duty station. A separate Secretary-General's bulletin will be issued for this purpose. Each board shall submit a report to the Office of Human Resources Management, which will consolidate the reports for transmission to the annual meeting of the Staff Management Coordination Committee, for the purpose of reviewing the implementation of the policy in the Secretariat.

[2] These procedures are set out in ST/AI/371.

Monitoring during the investigation

6.4 Where a fact-finding investigation is initiated following receipt of a formal complaint of prohibited conduct, appropriate measures shall be taken by the head of department, office or mission to monitor the status of the aggrieved party, the alleged offender and the work unit(s) concerned until such time as the fact-finding investigation report has been submitted. The purpose of such monitoring shall be to ensure that all parties comply with their duty to cooperate with the fact-finding investigation and that no party is subjected to retaliation as a result of the complaint or the fact-finding investigation. Where retaliation is detected, the Ethics Office shall be promptly notified and the matter shall be handled in accordance with the provisions of ST/SGB/2005/21. The Office of Human Resources Management may request information from the head of department or office, as necessary.

Post-investigation review

6.5 Once the investigation has been completed and a decision taken on the outcome, appropriate measures shall be taken by the head of department/office/mission to keep the situation under review. These measures may include, but are not limited to, the following:

(a) Monitoring the status of the aggrieved party, the alleged offender and the work unit(s) concerned at regular intervals in order to ensure that no party is subjected to retaliation as a consequence of the investigation, its findings or the outcome. Where retaliation is detected, the Ethics Office shall be promptly notified;

(b) Ensuring that any administrative or disciplinary measures taken as a result of the fact-finding investigation have been duly implemented;

(c) Identifying other appropriate action, in particular preventative action, to be taken in order to ensure that the objectives of the present bulletin are fulfilled.

The Office of Human Resources Management may request information from the head of department or office, as necessary.

Annual information circular

6.6 The Secretary-General shall include in the annual circular informing staff of his practice in disciplinary matters information on cases where discrimination, harassment, including sexual harassment, and abuse of authority have been found. The information circular shall also inform staff of the most common examples of prohibited conduct and their consequences, including any disciplinary or legal action taken, with due regard to the privacy of the staff members concerned.

Section 7
Final provisions

7.1 The present bulletin shall enter into force on 1 March 2008.

7.2 Secretary-General's bulletin ST/SGB/253 of 29 October 1992 and administrative instruction ST/AI/379 of 29 October 1992 are hereby abolished.

(*Signed*) **Ban** Ki-moon
Secretary-General